

REMARKS

I. Summary of Office Action

In the Office Action, the Office:

- Objected to Claims 35 and 36 (the last two claims) as being misnumbered;
- Required restriction under 35 U.S.C. § 121 to one of the following Groups:
 - Group I, Claims 19-22, drawn to a waste storage cassette;
 - Group II, Claims 23-26, drawn to a waste storage device comprising a throat with enveloped waste gripper;
 - Group III, Claims 27-29 and 30-32 drawn to a waste storage device comprising a throat with enveloped waste guide; and
 - Group IV, Claims 33-36 drawn to a waste storage device comprising a waste cassette chamber lid with a rotatable tubing cutter.
- Rejected Claims 1-2, 18 and 37 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement;
- Rejected Claims 1-2, 18 and 37 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention;
- Rejected Claims 1-2, 18 and 37 under 35 U.S.C. 102(b) as being anticipated by Stravitz (US PN 6,612,099)

By this Reply, Claims 1, 2, 19, and 37 have been amended; Claim 38 has been added; and Claims 18 and 22-22 are cancelled. Claims 3-17 remain cancelled from a previous Reply. Therefore, Claims 1, 2, 19, 23-38 are at issue. No new matter has been introduced.

Applicants submit that the Application is in condition for allowance and respectfully request same.

II. Objection to Claim Numbering

The claims have been renumbered to eliminate the repetition of number 35. Second Claim 35 is now Claim 36, and what was Claim 36 is now Claim 37.

III. Restriction Requirement

Applicants respectfully disagree with the Office's requirement for restriction. Applicants remind the Office that prior to filing their Reply to the Restriction Requirement, Examiner Desai was consulted on the appropriateness of the preliminary amendment.

First, Claims 23-36 have not been withdrawn.

Second, the Office identified four (4) groups of inventions. However, the amended set of claims includes only three (3) independent claims, Claims 1, 19, and 37. Assuming Claim 1 has been placed in condition for allowance, and that all other rules have been satisfied, the claims depending from Claim 1, Claims 2 and 23-36, include all of the limitations of Claim 1 and would be in condition for allowance as well. Therefore, Groups II, III, And IV must belong to the same group as the examined claims, Claims 1, 2, and 37.

Second, Claim 19 does not meet the test for a proper restriction. Pursuant to M.P.E.P. § 803, a restriction requirement is proper only if (1) the inventions are independent or distinct as claimed, and (2) there would be a serious burden on the examiner if the restriction is not required.

Here, Applicants acknowledge the Office's finding that the inventions may be patentably distinct from each other. However, Applicant respectfully submits that a search and examination of a single claim set would likely cover all aspects of the application. This would not seem to impose a serious burden on the examiner. As to the request for an election of a group, clearly a *prima facie* showing has not been made for insisting upon the restriction. Nothing has been represented to Applicants to show a serious burden if restriction is not required. Therefore, Applicants respectfully request that the restriction requirement be withdrawn because there would not be a serious burden if restriction is not required.

To the extent the Office does not agree with Applicants on the above points, Applicant provisionally elects to prosecute Claims 1, 2, 23-36, and 37.

The Office is reminded that M.P.E.P. § 802.01 states that the distinctness required for restriction means the subjects "ARE PATENTABLE (novel and unobvious) OVER EACH OTHER" (emphasis in original). (See also M.P.E.P. § 808.02, which states that where "related inventions are not patentably distinct as claimed, restriction . . . is never proper." The Patent

Office has also stated “it is imperative the requirement should never be made where related inventions as claimed are not distinct.” M.P.E.P. § 806).

The Office must adopt these positions in order to enter the restriction requirement. It follows that these same positions may be relied upon by Applicants during examination of this and continuing applications. If the Office is not taking these positions, then it is submitted that the restriction requirement should be withdrawn upon reconsideration.

Applicants encourage the Office to contact the undersigned if some deficiency in this Reply is perceived.

III. Rejection under 35 U.S.C § 112, first paragraph

The Office rejected Claims 1-2, 18 and 37 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Office argued that “a waste storage receiving chamber,” “a waste storage cassette rotator,” and “a formation for supporting a waste storage cassette” as set for in Claim 1 were not described in the originally filed specification. Applicants respectfully disagree.

With respect to “a waste storage cassette receiving chamber,” Applicants amended Claim 1 to read “a waste storage cassette container” which is described throughout the specification as-filed. “A waste storage cassette rotator” and “a formation for supporting a waste storage cassette” are fully described at ¶0028 of the published application (US 2007/0157581) with specific identification of reference identifiers in the drawings. In particular:

[0028] The device includes a rotatable spinner or disk 100 with a handle 102. The disk 100 is mounted for a rotation on an annular rim 104 of a formation on the container 21. The cassette 1 has an annular flange 106 around its outer wall resting on the shoulder 104 such that rotation of the disk 100 rotates the cassette to provide the twist in the tubing 2. In an alternative embodiment (not shown) the annular flange 106 on the cassette rests on a formation in the container itself and the disk 100 includes formations such as lugs engaging co-operating formations such as notches in the cassette. In either event a simpler means of rotating the cassette, and with less resistance to rotation, is provided.

In view of the clear description of the cited terms “a waste storage cassette container,” “a waste storage cassette rotator,” and “a formation for supporting a waste storage cassette,” Applicants submit that the rejection under 35 U.S.C. § 112, first paragraph, has been traversed.

IV. Rejection under 35 U.S.C § 112, second paragraph

The Office rejected Claims 1-2, 18 and 37 under 35 U.S.C. § 112, second paragraph, alleging that the term “a waste storage cassette” as set forth in Claims 1 and 37 lacks antecedent basis for the this limitation in the claims. Applicants respectfully disagree.

To the extent the Office has rejected Claims 1 and 37 based on a lack of description on the specification, Applicants direct the Office’s attention to the argument traversing the rejection under 35 U.S.C. § 112, first paragraph, set forth above. To the extent the Office has rejected Claims 1 and 37 based on a lack of antecedent basis in the claims themselves, Applicants respectfully assert that the term “a waste storage cassette” provides antecedent basis for all subsequent recitations of “the waste storage cassette” in those claims and the claims that depend from Claim 1.

In view of the clear foregoing traverse, Applicants submit that Claims 1 and 37 do not violate 35 U.S.C. § 112, second paragraph.

V. Rejection under 35 U.S.C § 102(b)

The Office rejected Claims 1-2, 18 and 37 under 35 U.S.C. 102(b) as being anticipated by Stravitz (US PN 6,612,099). Applicants respectfully submit that the claims, as amended, are in condition for allowance over Stravitz.

A. Summary of Claim Amendments

Claim 1 has been amended to require the waste storage cassette rotator to rotatably mounted in “an upper part of the container.” Support for this amendment is clearly shown in figures. Furthermore, the last sentence of paragraph 24 refers to “the lower part of the container” in which the wrapped waste packages are stored, such that it is clear that the rotation means for the cassette, provided relatively thereabove, are provided in an upper part of the container.

Claim 1 has been further amended to recite the physical configuration of the waste storage cassette rotator in detail. Basis for this amendment can be found in paragraph 31 of the description.

Claim 1 has been further amended to add the following feature: “wherein the waste storage cassette rotator is arranged for suspending the waste storage cassette from the inwardly

projecting flange". Basis for this amendment can be found in paragraph 26 of the description in which it is said that the cassette is designed to suspend from an annular flange around its outer cylindrical wall. When read in conjunction with paragraph 31, it is clear that this suspension is achieved when the annular flange of the cassette is supported on the inwardly projected support flange of the waste storage cassette rotator.

Claim 2 has been amended to clarify that the cooperating formation on the waste storage cassette is provided on and projects from the outer wall of the cassette. Again, basis for this can be found throughout the description, for example in paragraphs 26 and 31.

Previous claim 18 has been deleted.

Claim 19 has been amended to correspond to amended Claim 1. Basis for the changes made to Claim 19 can be found in the paragraphs referred above with respect to Claim 1 as well as in previous Claim 20.

Previous Claims 20-22 have been cancelled, their subject matter now effectively being covered by amended claim 19.

No changes have been made to Claims 23-36.

Claim 37 has been amended in keeping with the changes made to Claim 1.

A new claim 38 has been added. Basis for this can be found in, for example, paragraphs 26 and 28 of the US published patent application.

B. Distinguishing Claims at Issue from Stavitz

The Office argued that Claims 1-2, 18 and 37 as previously on file were anticipated by Stravitz (US 6,612,099). Applicants respectfully submit that the claims, as amended, are novel and non-obvious over Stavitz for the reasons set forth below.

Stravitz describes a waste disposal device including a container defining a waste storage chamber and a cartridge which is removably arranged in the container. The cartridge contains a length of flexible tubing for packaging waste objects. The waste storage chamber (40) in Stravitz includes a flange (18) for supporting a waste cartridge (24) thereon. The device further includes a retention mechanism (72) extending downwardly from the supporting flange (18). In use, when a waste object is placed in a length of tubing drawn out from the cartridge (24), the retention mechanism (72) acts to hold the waste object in place while the cartridge (24) is rotated

relative to the waste package and to the waste storage device. This rotation of the cartridge causes a twist to be formed in the tubing above the waste object, hence creating a sealed waste package.

In order to rotate the cartridge in Stravitz, a gear (60) is mounted on an inner wall of the waste storage device. The gear (60) co-operates with a rack gear (42) which extends from the lid of the waste storage device into the device itself. When the lid is pushed downwards, this actuates the rack gear (42) downwards which, in turn, causes rotation of the gear (60) on the inner wall of the device. This rotation of the gear (60) interacts with a series of projections (66) on the outer wall of a waste cartridge (24), causing the cassette to rotate.

Stravitz does not disclose a waste storage device as claimed in Claim 1 as amended. Specifically, Stravitz does not disclose a waste storage cassette rotator which is rotatably mounted in the upper part of a waste storage device container and which is configured to engage and to support a waste storage cassette for rotation thereof. Instead, Stravitz discloses a support flange (18) for supporting a waste storage cassette and a separate gear (60) for rotating the cassette with respect to the waste storage chamber in which it is placed. The support flange (18) and gear (60) in Stravitz are not linked, nor do they in any way interact with one another in order to provide their respective functions.

Stravitz also does not disclose or suggest suspending a waste storage cassette from an inwardly projecting flange or from any other feature of a waste storage device. Instead, in Stravitz, the waste cartridge is always placed on a stationary support flange in order to be rotated. Therefore friction occurs, resisting the rotational movement of the cartridge.

Additionally, Stravitz does not disclose a waste storage cassette rotator comprising an upper annulus, a cylindrical wall extending downwardly from the upper annulus, and a flange projecting inwardly from a lower portion of that cylindrical wall. Instead, as discussed above, the rotation in Stravitz comes from a complicated series of interacting gear arrangements.

It will thus be appreciated that the waste disposal device of Claim 1 is entirely different to the device of Stravitz, and that the claim amendments submitted herewith fully clarify the distinction between the two arrangements. For example, the two arrangements have entirely

different respective rotating means and thus support and rotate a cassette in entirely different respective ways.

By providing a waste storage cassette rotator as featured in Claim 1, a straightforward arrangement for rotating a cassette in a waste storage device container is achieved. Because the waste storage cassette rotator is itself rotatably mounted in an upper part of the container and is arranged to suspend the waste storage cassette therefrom, the waste storage cassette rotator and waste storage cassette can be rotated together. There is, therefore, no friction between the waste storage cassette rotator and the waste storage cassette or between the waste storage cassette and any other feature within the waste storage device.

The waste storage device according to Claim 1 does not require complicated or heavy components such as gear arrangements. It will be appreciated that such complicated arrangements as featured in the Stravitz prior art add to the weight of a waste storage device, as well as making it more costly and time-consuming to manufacture. Furthermore, gear components can present a dirt trap and a potential safety hazard. The waste storage device according to Claim 1 poses none of these problems. Instead, it provides a user-friendly, straightforward and efficient means of rotating a cassette, with less resistance to rotation. This solution according to Claim 1 is not disclosed in or taught by Stravitz. Indeed, Stravitz does not recognize the many problems associated with the device disclosed therein. Thus, Claim 1 is clearly novel and non-obvious over Stravitz.

The waste storage cassette according to Claim 19 is both novel and inventive over Stavitz for corresponding reasons as those set out in relation to Claim 1 above. Nothing in the prior art suggests that a cassette should be provided with a formation that enables engagement with a waste storage cassette rotator for both support and rotation of the waste storage cassette. Instead, support and rotation of the cartridge in Stravitz are addressed separately, using different respective features of the cassette. Furthermore, there is no hint in the prior art that a waste storage cassette should be arranged for suspension from a waste storage cassette rotator. Instead, Stravitz focuses on supporting a cassette from underneath, inevitably leading to friction and resistance to rotation of the cassette. Therefore, Claim 19 is both novel and inventive over Stavitz.

Each of the remaining claims is dependent on Claim 1 or Claim 19 and thus is patentable at least by virtue of the patentable features of the respective independent claim.

Conclusion

In view of the foregoing, Applicants respectfully request the Office to allow Applicants' claims. If deficiencies remain, the Office is strongly urged to contact the undersigned to facilitate allowance of this case.

Respectfully submitted,

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